

under 37 C. F. R. §§ 1.16 to 1.21 from Williams, Morgan & Amerson, P.C. Deposit Account No. 50-0786/4300.012100.

Entry of the amendment and reconsideration of the application in view of the accompanying remarks are respectfully requested.

**1. AMENDMENT**

**1.1 IN THE CLAIMS:**

*Please amend claims 41, 61, 73, and 74 so that the amended claims read as follows:*

*Please cancel claims 42, 43 and 48 without prejudice and without disclaimer.*

41. (Currently Amended) A recombinant herpes simplex ICP27 deletion mutant viral vector that comprises-a DNA segment ~~isolated from herpes simplex virus ICP27 deletion mutant ATCC PTA 4004, wherein said segment encodes an adeno associated virus cap gene and an adeno associated rep gene, and further comprising an adeno-associated virus Rep coding sequence and an adeno-associated virus Cap coding sequence,~~ wherein each of said genes coding sequences is operably linked to a ~~homologous or a heterologous promoter selected from the group consisting of a p19, p40, CMV 40, HIV LTR, HCMV IE, and an HSV 110 promoter.~~

42. (Cancelled)

43. (Cancelled)

45. (Previously Amended) The recombinant herpes simplex viral vector of claim 41, wherein said adeno associated virus *cap* gene or said adeno associated *rep* gene is obtained from an adeno-associated virus selected from the group consisting of AAV-1, AAV-2, AAV-3, AAV-4, AAV-5, and AAV-6.

46. (Previously Amended) The recombinant herpes simplex viral vector of claim 41, further comprising a deletion or an alteration of a non-essential gene for helper virus function or replication of an adeno-associated virus.

47. (Previously Amended) The recombinant herpes simplex viral vector of claim 46, wherein said deletion or said alteration is effective to increase expression of ICP8 protein.

48. (Cancelled)

49. (Previously Amended) The recombinant herpes simplex viral vector of claim 46, wherein said vector fails to express glycoprotein H.

57. (Previously Amended) A kit comprising the recombinant herpes simplex viral vector of claim 41, and instructions for using said vector.

61. (Currently Amended) A recombinant herpes simplex virus ICP27 deletion mutant, rHSV d27.1rc, identified as American Type Culture Collection Deposit deposited with the American Type Culture Collection as Accession Number PTA-4004.

63. (Previously Added) The recombinant herpes simplex viral vector of claim 41, comprising a DNA segment that comprises an AAV-2 rep coding sequence operably linked to a promoter, an AAV-2 cap coding sequence operably linked to a promoter and at least a first sequence that encodes a Herpes simplex viral protein selected from the group consisting of UL5, UL8, UL52, and UL29.

64. (Previously Added) A virion or viral particle that comprises the recombinant herpes simplex viral vector of claim 41.

65. (Previously Added) A plurality of virions or viral particles that comprise the recombinant herpes simplex viral vector of claim 41.

66. (Previously Added) A host cell that comprises the recombinant herpes simplex viral vector of claim 41, the virion or viral particle of claim 64, or the plurality of virions or viral particles of claim 65.

67. (Previously Added) The host cell of claim 66, wherein said cell is a mammalian cell.

68. (Previously Added) The host cell of claim 67, wherein said mammalian cell is a human cell.

69. (Previously Added) The host cell of claim 66, further comprising an rAAV vector or provirus.

70. (Previously Added) The host cell of claim 69, wherein said rAAV vector or provirus comprises a therapeutic gene.

71. (Previously Added) A composition comprising the recombinant herpes simplex viral vector of claim 41, the virion or viral particle of claim 64, or the plurality of virions or viral particles of claim 65.

72. (Previously Added) The composition of claim 71, further comprising a pharmaceutical buffer or excipient.

73. (Currently Amended) The composition of claim 72, formulated for administration to a mammal mammalian host cell culture.

74. (Currently Amended) The composition of claim 73, wherein said mammal mammalian host cell is a human host cell culture.

75. (Previously Added) A composition comprising the recombinant herpes simplex viral vector of claim 41, and a host cell that comprises an rAAV vector or an rAAV provirus.

76. (Previously Added) A mammalian host cell comprising the recombinant herpes simplex viral vector of claim 61.